

PTO/SB/21 (08-03)

Approved for use through 07/31/2008. OMB 0651-0031

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**TRANSMITTAL
FORM**

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

Application Number

10/805801

Filing Date

March 23, 2004

First Named Inventor

Jesse A. Branch III

Art Unit

3673

Examiner Name

Gay Spahn

Attorney Docket Number

X-9454

ENCLOSURES (Check all that apply)

Fee Transmittal Form



Fee Attached



Amendment/Reply



After Final



Affidavits/declaration(s)



Extension of Time Request



Express Abandonment Request



Information Disclosure Statement



Certified Copy of Priority Document(s)

Response to Missing Parts/
Incomplete ApplicationResponse to Missing Parts
under 37 CFR 1.52 or 1.53

Drawing(s)



Licensing-related Papers



Petition

Petition to Convert to a
Provisional Application

Power of Attorney, Revocation



Change of Correspondence Address



Terminal Disclaimer



Request for Refund



CD, Number of CD(s) _____

Remarks

After Allowance communication
to GroupAppeal Communication to Board
of Appeals and InterferencesAppeal Communication to Group
(Appeal Notice, Brief, Reply Brief)

Proprietary Information



Status Letter

Other Enclosure(s) (please
Identify below):**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT**Firm
or
Individual name

J.W. GIPPLE, Gipple + Hele

Signature

Date

3/1/06

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

Typed or printed name

J.W. Gipple

Signature

Date

3/1/06

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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PTO/SB/17 (10-03)

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for FY 2004

Effective 10/01/2003. Patent fees are subject to annual revision.

☒ Applicant claims small entity status. See 37 CFR 1.27TOTAL AMOUNT OF PAYMENT (\$)**250.****Complete if Known**

Application Number	10/805801
Filing Date	March 23, 2004
First Named Inventor	Jesse A. Branch III
Examiner Name	Gay Spahn
Art Unit	3673
Attorney Docket No.	X-9454

METHOD OF PAYMENT (check all that apply)☒ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None☒ Deposit Account:Deposit Account Number
Deposit Account Name

07-1345

Gipple & Hale

The Director is authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☐ Credit any overpayments☒ Charge any additional fee(s) or any underpayment of fee(s)☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.**FEE CALCULATION****1. BASIC FILING FEE**

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
1001 770	2001 385	Utility filing fee	
1002 340	2002 170	Design filing fee	
1003 530	2003 265	Plant filing fee	
1004 770	2004 385	Reissue filing fee	
1005 160	2005 80	Provisional filing fee	

SUBTOTAL (1) (\$)**0****2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE**

Total Claims	Extra Claims	Fee from below	Fee Paid
Independent Claims	-20** =	X	
Multiple Dependent	-3** =	X	

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description
1202 18	2202 9	Claims in excess of 20
1201 86	2201 43	Independent claims in excess of 3
1203 290	2203 145	Multiple dependent claim, if not paid
1204 86	2204 43	** Reissue independent claims over original patent
1205 18	2205 9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) (\$)**0**

**or number previously paid, if greater. For Reissues, see above

FEE CALCULATION (continued)**3. ADDITIONAL FEES**

Large Entity Small Entity

Fee Code (\$)	Fee Code (\$)	Fee Description	Fee Paid
1051 130	2051 65	Surcharge - late filing fee or oath	
1052 50	2052 25	Surcharge - late provisional filing fee or cover sheet	
1053 130	2053 130	Non-English specification	
1812 2,520	1812 2,520	For filing a request for ex parte reexamination	
1804 920*	1804 920*	Requesting publication of SIR prior to Examiner action	
1805 1,840*	1805 1,840*	Requesting publication of SIR after Examiner action	
1251 110	2251 55	Extension for reply within first month	
1252 420	2252 210	Extension for reply within second month	
1253 950	2253 475	Extension for reply within third month	
1254 1,480	2254 740	Extension for reply within fourth month	
1255 2,010	2255 1,005	Extension for reply within fifth month	
1401 330	2401 165	Notice of Appeal	
1402 330	2402 165	Filing a brief in support of an appeal	250
1403 290	2403 145	Request for oral hearing	
1451 1,510	1451 1,510	Petition to institute a public use proceeding	
1452 110	2452 55	Petition to revive - unavoidable	
1453 1,330	2453 665	Petition to revive - unintentional	
1501 1,330	2501 665	Utility issue fee (or reissue)	
1502 480	2502 240	Design issue fee	
1503 640	2503 320	Plant issue fee	
1460 130	1460 130	Petitions to the Commissioner	
1807 50	1807 50	Processing fee under 37 CFR 1.17(q)	
1806 180	1806 180	Submission of Information Disclosure Stmt	
8021 40	8021 40	Recording each patent assignment per property (times number of properties)	
1809 770	2809 385	Filing a submission after final rejection (37 CFR 1.129(a))	
1810 770	2810 385	For each additional invention to be examined (37 CFR 1.129(b))	
1801 770	2801 385	Request for Continued Examination (RCE)	
1802 900	1802 900	Request for expedited examination of a design application	

Other fee (specify)

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$)**250.****SUBMITTED BY**

Name (Print/Type)	J.W. GIPPLE	Registration No. (Attorney/Agent)	18906	Telephone	703-448-1770
Signature	J.W. Gipple	Date	3/1/06		

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

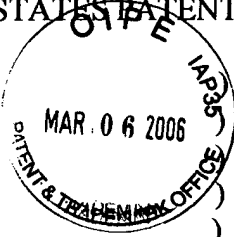
In re the Application of

Jesse A. Branch III

Filing Date: March 23, 2004

Application Serial No. 10/805,801

For: Forked Hammock Support Structure



Gay Spahn
Examining Attorney
Art Unit 3673

.....
The Honorable Commissioner
for Patents
P. O. Box 1450
Alexandria, Virginia 22313-1450

APPEAL BRIEF

STATEMENT

Sir:

This Brief is filed in support of the Applicant's appeal of the Examiner's Final Action dated July 26, 2005 rejecting Claims 6-10. The Final Rejection was in response to Applicant's Amendment of March 23, 2005 canceling claims 1-5, and adding claims 6 through 10. A Request for Reconsideration filed October 17, 2005 attempted to add claims 11 through 14. The request was not granted by the Examiner in an Advisory Action of November 1, 2005.

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REAL PARTY IN INTEREST

The real party of interest in this appeal is the applicant's assignee Hatteras Hammocks, Inc., a North Carolina corporation having a place of business at 1104 Clark Street, Greenville, North Carolina 27834. The assignment was recorded March 23, 2004 at Reel/Frame 015131/0533.

RELATED APPEALS AND INTERFERENCES

There are no other appeals of interferences known to Applicant, which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

Claims 6 through 10 stand finally rejected as being unpatentable over Clark (U.S. Appln. 2004/0244112 or 2005/0015876) in view of Hoffman (U.S. 4673211), Hoffman (U.S. 5362130) or Mourot (U.S. 2888689).

STATUS OF THE CLAIMS

On October 17, 2005, applicant submitted a proposed amendment, which addressed several formal objections raised by the Examiner and attempted to cancel claims 7 through 10, and add claims 11 through 14. By the Advisory Action of November 1, 2005, the Examiner refused to enter the proposed amendments because:

- (a) They raise new issues that would require further consideration and/or search,
- (b) They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (c) They present additional claims without canceling a corresponding number of finally rejected claims.

SUMMARY OF THE INVENTION

The present invention is a hammock stand comprised of several tubular members, which are assembled into an arc shaped stand. The stand has a single support hook on one end, and on the other end it has two horizontally spaced support hooks. The arc shaped stand is mounted on two foot supports which extend outwardly from and perpendicularly to the stand, each foot support being attached at its mid point to the bottom of the stand at the joint between the mid section and end section of the stand.

ISSUES PRESENTED

- (1) Whether the invention defined in Claims 6-10 is obvious and therefore unpatentable over the cited prior art reference of Clark (Publ. No. 2004/0244112 or 2005/0015876), in view of Hoffman (Pat. No. 4673211 or 5362130) or Mourot (Pat. No. 2888689).
- (2) Whether the Examiner has improperly refused entry of the proposed amendment with the Request for Reconsideration filed October 17, 2005.

GROUPING THE CLAIMS

The claims 6-10 comprise a single group.

ARGUMENT

I. Applicant traverses the Examiner's rejection of Claims 6-10 under 35 U.S.C. 103(a) over the cited prior art of Clark, in view of Hoffman or Mourot.

In the Office Action of July 26, 2005, the Examiner asserts

“However, Clark fails to explicitly disclose that at least one of said end sections, being divided, at a point commencing at or near one of said foot supports, to form two or more prong sections extending upwardly and outwardly from said foot support and means for supporting said hammock attached toward the outer ends of said prong sections.

Any one of Hoffman '211, Hoffman '130 or Mourot disclose chairs or other articles of furniture which have forked or divided end sections, the divisions commencing either at or near a foot support to form two or more prong sections extending upwardly and outwardly from the foot support and means for supporting said hammock attached toward the outer ends of said prong sections.”

However, it is clear that the Mourot and Hoffman patents have no foot supports. So, while they may disclose a forked or divided end section, such sections clearly do not commence at or near a foot support. An essential aspect of the present invention

is the positioning of the forked end section relative to the foot support. It provides the stability so important in a hammock stand.

II. The Examiner has improperly refused entry of the Amendment after Final on the grounds that the amended claims raise new issues that would require further consideration and/or search.

The Examiner has alleged that claims amended after Final pursuant to the Examiner's specific request raise new issues that would require further consideration and/or search. The proposed claims 11-14, are simply 6-10, amended to address objections raised by the Examiner in the Office Action of July 26, 2005.

III. There was no new matter requiring any additional search or examination and Applicant was simply responding to the suggestions set forth in the Examiner's Final Office Action.

These amendments should have been entered to place the application in better condition for appeal.


SUMMARY OF ARGUMENT

The respective grounds of final rejection of the claims of this application under 35 U.S.C. 103(a) as well as the refusal to enter the Amendment after final are incorrect for the reasons advanced above. Reversal thereof by the Honorable Board of Patent Appeals and Interferences is therefore requested and is earnestly solicited.

Our check in the amount of \$330.00 is attached to cover the cost of filing this
Brief and two copies. If any additional fees are required, kindly charged the same to
our Deposit Account No. 07-1345.

Respectfully submitted,

Gipple & Hale

By: 

Name: J. W. Gipple, Esq.

Patent Office No. 18906

Title: Attorney for Applicant

Date: 3/1/06

Attorney Ref. X-9454